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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,440	01/23/2004	Duane Anderson	018360/253342	6815
826	7590	11/01/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			LE, THIEN MINH	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

FL

Office Action Summary	Application No.	Applicant(s)	
	10/763,440	ANDERSON ET AL.	
	Examiner	Art Unit	
	Thien M. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-63, 69-83 and 2333 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-63 is/are allowed.
- 6) ☒ Claim(s) 23-27, 69-74 and 76-83 is/are rejected.
- 7) ☒ Claim(s) 28-33 and 75 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>multi-IDS</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The response to the restriction requirement with traverse filed on 7/29/2005 has been entered. Claims of group II, claims 23-33-34-63, and 69-83 remain for examination.

As a preliminary matter, applicant has not provided any argument to traverse the grounds of the restriction. Thus, the examiner respectfully made the restriction requirements FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

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directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 23-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Gray et al. (Gray et al. – US 2003/0043073 A1; herein after referred to as Gray).

Regarding claim 23, figure 1 of Gray shows “a mobile device detection and tracking system 100, in accordance with the preferred embodiment. Generally, a network 115 couples a plurality of detectors, e.g., access points (APs) 110, to system 100. The access points are selectively distributed throughout the defined space to provide wireless service to one or more mobile devices 120 operating therein. The mobile device 120 may be any known portable or transportable device configured for wireless communications, such as a mobile telephone, personal digital assistant (PDA), pager, e-mail device, laptop, or any Web enabled device. Many of such devices may be handheld devices, but other wireless devices that are not of such a compact size could also be detected and tracked. As wireless devices, the mobile devices 120 are configured to communicate with network 115 through a wireless interface, such as access points 110. “

Gray further discloses that the system “can be used to track the location and motion of consumers carrying a mobile communications device in a commercial retail establishment, employees in an office buildings, equipment and parcels in a manufacturing or shipping facility, or attendees at a conference in a convention center. In other examples, when migrating through an exhibit or museum, content or data describing or relating to a proximate exhibited item may be delivered, but which changes as the user changes location. In an academic setting, information (such as notes, exams, and dynamic audiovisual content) may be delivered to a student and/or a professor as a function of the classroom he occupies (e.g., as a locale) and the time of day. In a medical setting, patient information delivered to a doctor or nurse may be delivered as a function of the patient then assigned to the room or bed that the doctor or nurse is visiting. “

Accordingly, Gray discloses a tracking system 100 including a monitor/display 180, a location and tracking manager 170, a system manager 130, and a plurality of detectors (access points 110; figure 1) comprising sources 300 (as shown in figure 3), transmitting and receiving means (paragraph 0035-0041). The use of passive or active beacon tracking technique is considered inherent in light of the discussions set in paragraph 0006. Thus, Gray discloses the claimed invention.

Regarding claim 24, see the discussions regarding claim 23. Gray also discloses the use of his system for tracking parcels (see paragraph 0066).

Regarding claim 26-27, see the discussions regarding claim 1.

Claims 69-74 and 76-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Good et al. (Good et al. – US 2004/0069854 A1; herein after referred to as Good).

Regarding claims 69 and 73, Good discloses a mails/packages scanning, weighting, dimensioning, and sorting system (see paragraph 0014, 0017, 0026, 0167, 0171, 0202 and 0204; claims 2, 5, and 14). Accordingly, Good discloses a tracking system which provide location of each package/mail piece on a tunnel type scanning system where in zip code information, package dimensions information such as height, weight, etc. are scanned and/or measured for proper automatic sorting of the packages and/or mail pieces. The system also includes a display for displaying the scanned or measured information.

Thus, Good discloses the claimed invention.

Regarding claims 70 and 72, see paragraph 0171 of Good. Specifically, Good discloses that “For automated conveyor systems, often packages that pass through on the belt are assumed singulated. However, the processing of dimensional data collected within the package dimensioning/profiling subsystem 600 allows detection of packages that have not been properly singulated. For example, this subsystem can simultaneous track when two boxes pass through non-singulated and there is space between the boxes. In this case, the horizontal light curtain will detect the gap and detection in this scenario is straight forward. When the two boxes are close to each other or when one is on top of the other, the subsystem enables only one width (or

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height) measurement(s). However, to circumvent his restriction, subsystem 600 employs a simultaneous package detection method based on this width (height) measurement. This method is best described by considering the width measurement taken by the subsystem over time as being expressible as $[x_{\text{sub.1}}, x_{\text{sub.2}}, \dots x_{\text{sub.n}}]$. According to the simultaneous package detection/tracking method hereof, the subsystem 60 employs digital filters to compute the 1st and 2nd derivatives of x . Sudden changes in the value of x can be detected by a threshold on the 1st derivative and a zero-crossing check on the 2nd derivative. Thereafter, the subsystem 600 computes the 3rd derivative of x , and performs a threshold on 3rd derivative to improve the detection performance. Thus, this Simul-Trak.TM. package detection method can detect any arrangement of non-singulated boxes on the conveyor belt.” (also see other descriptions and functions of the package dimensioning/profiling subsystem 600).

Regarding claims 71 and 74, see paragraph 0017 of Good. Specifically, Good discloses that “another object of the present invention is to provide such a tunnel-type system, for reading bar code symbols on packages having various types of symbol formats, such as ZIP Code symbols (six digits), Package Identification Code (PIC) symbols (sixteen characters), and Tray bar code symbols (ten digits). And thus would meet all limitations set forth in this claim.

Regarding 76-83, see the discussions above regarding claims 69-74.

Allowable Subject Matter

Claims 34-44, and 45-63 are allowed.

Claims 28-33, and 75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art disclose tracking system for tracking parcels, packages, etc. However, the prior art fails to disclose the wearable features of a tracking system, having the functions and characteristics as recited in claim 28.

The prior art also fails to disclose the limitations of claims 34.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Le, Thien Minh', with a long horizontal stroke extending to the right.

Le, Thien Minh
Primary Examiner
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October 27, 2005